HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 85 (S/S) 2005

Smt. Rizwana Parveen W/o Sri Khursheed Ahmad,
R/o National Medical Store,
Azad Nagar, Line no. 1, Haldwani,
District Nainital. ....Petitioner

Vs.

1. State of Uttaranchal, through Secretary,
   Department of Education, Dehradun,
2. Director of Education, Uttaranchal, Dehradun,
3. Principal, District Education &
   Training Institute, Bhimtal,
   District Nainital. .....Respondent

Sri T.A. Khan, learned counsel for the petitioner.

Learned Standing Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri T.A. Khan, learned counsel for the petitioner and learned Standing Counsel for the respondent.

By means of this writ petition, the petitioner has prayed to issue a writ in the nature of mandamus commanding the respondents to fill three seats of O.B.C. (Art category) for Special BTC Course to be conducted in pursuance of the advertisement dated 25.08.2004 and further the respondents be directed to admit the petitioner for the post of Special BTC training.

The contention of the petitioner is that in pursuance of the advertisement dated 25.08.2004 the petitioner applied for Special BTC Course, in the advertisement, it was specifically provided that the benefit of reservation will be given to the candidates who are entitled for it. The petitioner belongs to the Back-ward Class and she is fully eligible to be selected for training, as she fulfills all the qualifications prescribed for being selected for Special BTC Course. As per the advertisement, there were 150 posts in the district Nainital, which were to be filled

for Special BTC training. Out of 150 posts, 50% seats were fixed for Science Category and 50% seats for Are Category. The State of Uttaranchal has provided 14% reservation for the candidates belong to O.B.C. category, as such, the respondents are bound to fill up 21 seats out of 150 posts from the candidates belong to the Back-ward Class.

The submission of the learned counsel for the petitioners is that the respondents did not follow the norms of reservation and applied the reservation roster in an arbitrary manner.

Learned Standing Counsel has filed counter affidavit. It is not denied by the respondents that 21 seats should have been filled from amongst O.B.C. candidates. According to the petitioner, there should have been at least 10 seats reserved for O.B.C. candidates in Art Category. Leaned Standing Counsel has submitted that they have fixed 10 seats to be filled from O.B.C. candidates in the Art Category.

Learned Standing Counsel has submitted that the 10 seats were to be filled from amongst O.B.C. candidates in the Art Category. Eight persons from O.B.C. category were selected and they were called for admission. One person belonging to Handicapped Category and one from Ex-Army were also called, as they were entitled for horizontal reservation as per the Govt. orders. Neither the person under the Handicapped Category nor under the category of Ex-Army have joined and even out of 8 persons, who were called from amongst O.B.C. Category, 5 persons have joined. Consequently, the respondents again invited three persons from O.B.C. category from waiting list. Again from the three persons, two persons did not turn up, thus 7 persons from O.B.C. category have joined and there remain three posts vacant as on today.

Since the personnel who belongs to Ex-Army quota and physically handicapped quota did not turn up, the seats cannot be carry forward, as there is no specific order passed by the Govt. in this regard. Therefore, there are still three seats vacant

under the O.B.C. category. The petitioner herself claims to be an O.B.C. candidate and it is submitted that, she has already submitted caste certificate and she is fully qualified to be selected.

From the facts, it is clear that three seats for Special BTC training under O.B.C. category are vacant at present. The respondents may fill up these three posts from the candidates belong to O.B.C. category. In case, the candidates having higher position in merit are available to fill up these posts, the posts may be filled up by these candidates and in case, there is no such candidates available then the posts may be filled by giving opportunity to the petitioner.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

March 1,2005:
NCM: